

Wednesday, September 14, 2016 1:00 pm, first case
15-0695 Polk County

Christopher J. **Godfrey v. State of Iowa**; Terry Branstad, Governor of the State of Iowa, Individually and in his Official Capacity; Kimberly Reynolds, Lieutenant Governor of the State of Iowa, Individually and in her Official Capacity; Jeffrey Boeyink, Chief of Staff to the Governor of the State of Iowa, Individually and in his Official Capacity; Brenna Findley, Legal Counsel to the Governor of the State of Iowa, Individually and in her Official Capacity; Timothy Albrecht, Communications Director to the Governor of the State of Iowa, Individually and in his Official Capacity; and Teresa Wahlert, Director, Iowa Workforce Development, Individually and in her Official Capacity

Attorneys: Roxanne Barton Conlin – Appellant, Jeffrey S. Thompson – Appellees, Jeffrey C. Peterzalek - Appellees

Case Summary: In this interlocutory appeal the plaintiff contends the district court erred in granting the defendants' motion for partial summary judgment on counts VI-IX of his petition. He asks the Supreme Court to recognize a private cause of action for damages when a citizen's constitutional rights pursuant to the Iowa Constitution are violated by state actors.

Facts of the Case:

Christopher Godfrey was appointed by Governor Tom Vilsack in 2006 to serve as a Worker's Compensation Commissioner for the state of Iowa to fill an unexpired term. Mr. Godfrey was reappointed to a full six year term by Governor Culver in 2009 (to expire in 2015). By December 2010, Mr. Godfrey had advanced to the highest level of pay allowed in his employment category. Governor Terry Branstad was elected in November 2010. In December, as part of the gubernatorial transition process, Branstad sent letters to 30 individuals in state government asking for their resignations. The Governor could then either accept or reject these resignations. Mr. Godfrey refused to resign, citing the non-partisan nature of his position and his unexpired term of appointment.

Mr. Godfrey was approached by members of Governor Branstad's staff, once again to ask for his resignation. Mr. Godfrey again refused. Mr. Godfrey alleges that the Governor's staff threatened to reduce his salary from the top of the pay grade for the position to the lowest amount allowed in that category. When Mr. Godfrey again refused to resign, his pay was reduced by approximately \$39,000. The Governor's office cited poor performance as the reason for this demotion. Mr. Godfrey alleges that he had always had positive performance reviews and that nothing in his file could demonstrate a poor work record. (It should be noted here that Mr. Godfrey is gay and is an outspoken advocate of equal rights for LGBT citizens.) Mr. Godfrey alleges that his demotion in a non-partisan position for political reasons and because of his sexual orientation is a violation of his rights as guaranteed by the Iowa Constitution.

Legal Process:

Through his attorneys, Mr. Godfrey filed a lawsuit in Polk County District Court challenging the actions of Governor Branstad and his staff. The Governor, represented by the State Attorney General, asked for Summary Judgement (essentially finding the case to be without merit and throwing it out of court). The Polk County District Court granted summary judgement in 4 counts of the lawsuit.

It is the appeal of the removal of those 4 counts that the Iowa Supreme Court is asked to review.

Discussion:

The facts of the job demotion are not at issue here in Court. Pending the decision of the Iowa Supreme Court, the matter may be referred to the Polk County District Court for trial. At that trial all of the facts will be presented and reviewed.

At issue here, instead, is the question of Constitutional protection and some rather interesting arguments about the nature of rights. The Iowa Constitution, like many other state constitutions, contains language similar to the U.S. Bill of Rights protecting a number of individual rights and placing limits on government action. Among the rights protected are Due Process and Equal Protection. But while the Iowa Constitution guarantees these rights, it does not explicitly state a course of action. Rather, it implies that the General Assembly may enforce these provisions by passing legislation. To date, the Iowa Legislature has not enacted laws regarding the areas discussed here.

This raises an important question: Are Constitutional protections self-executing? In other words, is the language of the Constitution sufficient in and of itself to allow citizens the right to sue the government for abuse of rights? In its brief, the Appellant (Mr. Godfrey) argues that other states have interpreted similar provisions to mean that rights are already protected without legislative action. The Appellee (State of Iowa) counters with a Plain Language argument: that the Constitution says what it says and should not be interpreted any differently. In this instance, the Appellees state that the Constitution reads: *"The general assembly shall pass all laws necessary to carry this constitution into effect."* Appellees also cite other states where those courts have upheld this argument.

A second area for consideration centers on the nature of torts. A tort is an action that wrongly causes harm to someone but that is not a crime and should be dealt with in civil court. Tort claims typically involve situations where one person or a business is harmed by another individual or business. In this situation, however, the Appellants point to the tort actions inflicted on an individual by the Government.

The Iowa legislature passed the Iowa Civil Rights Act (ICRA) to include discriminatory practices as part of a tort claim. If an individual believes that she or he is being discriminated against by another individual or a business based on a variety of protected categories (race, gender, disability, national origin, ethnicity, religion, age, sexual orientation), she or he may request that the Iowa Civil Right Commission investigate, and if the claim has some merit, the ICRC may issue a Right to Sue letter, allowing for a civil case to go forward in court. The Appellees (State of Iowa) believe that this is the appropriate course of action for this situation. The Appellants (Godfrey), however, believe that the ICRA was never intended to deal with discriminatory practices by the government itself; that the ICRC does not have jurisdiction in this case; and that the Iowa Judicial Branch is the only appropriate body to take action.

Typically, appellate courts will try to form opinions on the narrowest bases possible. Therefore, if there is an alternative process in place, many times, the Court will defer to that. If the Court, in this case, determines that the use of the processes defined by the Iowa Civil Rights Act are appropriate, it will defer to that and uphold the District Court's summary judgment to remove that part of the lawsuit.

Both the Iowa County Attorneys Association and the Iowa League of Cities have filed Amicus Curiae briefs in support of the Appellees (State of Iowa). Amicus Curiae means "friend of the court." An Amicus brief is filed by a person or an organization that is not officially part of the legal proceedings but for whom the outcome of the case may have some bearing. In this instance, both the County Attorneys Association and the League of Cities believe that if the Court were to find for Mr. Godfrey on the basis of his constitutional claims, they would be subject to new rules and oversight beyond the current ICRC process.